



## **Response to: CONSULTATION ON THE LEGAL AID MEANS TEST REVIEW**

### **About Rights of Women**

Rights of Women is a legal rights organisation which specialises in supporting women who are experiencing – or at risk of experiencing – all forms of Violence Against Women and Girls (VAWG), including domestic and sexual violence. In our approach, we recognise the additional barriers posed by the intersection of gender-based abuse, racism, structural inequality and other forms of discrimination and oppression that impact on women’s vulnerability, exclusion and marginalisation.

By offering a range of services – including specialist telephone legal advice lines, legal information and training for professionals – we aim to increase women’s understanding of their legal rights and improve their access to justice. We empower women to make informed choices where they come into contact with the criminal, family, employment or immigration and asylum legal systems so they can live free from violence.

Rights of Women is a registered charity 1147913 and Company Limited by Guarantee.

### **Rights of Women’s consultation response**

Before answering the specific questions asked in the consultation we would point out that as a women’s legal rights organisation we will confine our responses to law and legal policy issues within our skills and experience.

The case studies are based on experiences of women we have supported and we have not used their real names.

Access to civil legal aid is a pressing issue for our beneficiaries. We have focused on questions relevant to civil legal aid only, and have not responded to questions specific to criminal law legal aid.

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## Introduction

### The need for reform

The need to reform the means test is brought to our attention by survivors of domestic abuse when we speak to them on our family law advice lines. Despite attempts to keep survivors of domestic abuse in scope for family law legal aid through the Legal Aid Sentencing and Punishment of Offenders Act 2012 (LASPO), a large proportion of survivors are unable to access legal services because they are financially ineligible for legal aid. Survivors tell us that they struggle to get through to our family law advice lines as demand is so high, due to the number of women who cannot access legal services. A survey by Surviving Economic Abuse found that more survivors had to self-represent in legal proceedings than were able to access legal aid<sup>1</sup>. The Ministry of Justice’s Harm Report found that the “most important and frequently mentioned form of structural disadvantage was lack of access to legal representation”<sup>2</sup>.

We sometimes hear from survivors on our advice line who tell us that they have spent all of their savings on legal fees, or have accrued tens of thousands of pounds of debt. This was also reflected in the report by Surviving Economic Abuse which found that the current legal aid framework is causing debt and destitution, and that “45% of the women who responded to the survey said they made serious cutbacks that affected their ability to pay for basics, such as food, in order to pay for legal costs”<sup>3</sup>. The report also found that having to self-represent hindered survivors’ ability to rebuild their lives.

If the Government is to meet its commitment to tackle violence against women and girls, it is essential that it gets the means test right.

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<sup>1</sup> Surviving Economic Abuse, [Denied Justice: How the legal aid means test prevents victims of domestic abuse from accessing justice and rebuilding their lives](#), October 2021, page 1

<sup>2</sup> [Assessing Risk of Harm to Children and Parents in Private Law Children Cases](#), Ministry of Justice, June 2020, page 46

<sup>3</sup> Surviving Economic Abuse, [Denied Justice: How the legal aid means test prevents victims of domestic abuse from accessing justice and rebuilding their lives](#), October 2021, page 3

We have made recommendations on how the proposed means test could be improved to ensure those who are in need, including survivors of domestic abuse, are able to access justice.

### **The gap between those who are eligible and those who can afford to pay**

In our submission to the LASPO Post Implementation Review we said that “The gap between those who are financially eligible for legal aid and those who can afford to pay privately is huge” and that a thorough review of the way means is assessed is long overdue<sup>4</sup>. Every year that the means assessment remains stagnant, the gap widens further. We welcome the fact the Ministry of Justice has reviewed the means test, and hope that this will instigate a process for more regular reviews going forward. We suggest the review should be carried out annually.

We are disappointed that “the gap” between those who are eligible for legal aid and those who can afford to pay for legal services did not receive closer scrutiny during the means test review. The proposals are predicated on the notion that a person who is deemed to have above median income or capital should not receive legal aid. There has been no assessment of how much it costs to pay privately for legal services, the amount of disposable income or capital a person must have in order to afford legal services without any legal aid, or the extent to which a person who is deemed ineligible by the proposed means test could in fact afford to pay for legal services. Without this type of analysis the Government cannot be confident that those who cannot afford to pay for legal services will receive legal aid, or that access to justice is available to those who need it.

### **The right to request a hardship review**

It is important to have safeguards in place for those who fall through the gap with any system, but given that the Ministry of Justice has not established whether those who are ineligible for legal aid can afford to pay for legal services we suggest that it is essential that there be a hardship review mechanism for civil legal aid. The right to request a hardship review already exists within criminal legal aid, which can result in a person being deemed eligible or having their contributions reduced or waived. We recommend that something similar be introduced to civil legal aid. We suggest that providers and those who support vulnerable groups of people are consulted on any guidance that is produced on the hardship review mechanism. Over time, the outcomes of hardship reviews may help the Ministry of Justice understand how the means test could be improved.

### **Evidencing means**

The Means Test Review has not explored the requirements placed on applicants to evidence their means. Applicants are required to provide evidence of their means such as bank statements, wage slips, benefit letters, mortgage or rent statements and childcare receipts. Many applicants, especially those fleeing domestic violence, do not have access to that evidence, resulting in the refusal of legal aid.

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<sup>4</sup> Page 39, [Submission to the Government post-implementation review of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(LASPO\)](#), September 2018

Current guidance allows solicitors to assist survivors of domestic violence in obtaining protective orders even if they are not able to provide evidence of means straight away. However, providers often tell us that they are reluctant to do this because if the Legal Aid Agency disagrees with their assessment or the applicant is unable to obtain the evidence within a certain timescale then the provider will not get paid for their work.

If the Government is serious about its stated intention to provide legal aid to survivors of domestic abuse then it must accept that survivors of domestic abuse will not always be able to provide evidence of means, and that this should not preclude them from accessing legal aid.

### **Sustainability and remuneration for providers**

We are pleased that the Ministry of Justice seeks to reduce administrative complexity as part of the Means Test Review. We agree with this aim in the hope that it will help improve the sustainability of legal aid. However, we have highlighted in our response to the consultation questions where we feel the proposals will create extra administrative burden, or where the means test could be more efficient.

We increasingly hear from survivors that they find it difficult to find providers to take on their case, especially for Legal Help divorce and finances cases. For some survivors divorce and the enforcement of financial rights are important steps in severing ties with the perpetrator. However, providers are unable to take these cases on as the remuneration they receive is insufficient compared to the amount of work required making this work economically unviable. We also hear that survivors are experiencing delays in receiving legal aid (providers do not feel confident using delegated functions in case their assessment is overturned and they may not get paid), or that their lawyer does not have capacity to respond to their communications within the timescales that they expected.

We recommend that providers are remunerated for the time they spend assessing means, and that the Ministry of Justice increases the fees paid to providers to ensure that they are paid for all of the work they do on a case.

# Response to consultation questions

## Chapter 2: Overarching proposals

**Question 1: do you agree with our proposal to take household composition into account in the means test by using the OECD Modified approach to equivalisation? Please state yes/no/maybe and provide reasons.**

Maybe. Household composition should be taken into account when assessing means. It is beyond our expertise to comment upon whether the OECD Modified approach is the fairest way to do this, and there is not enough information within the consultation document to help us respond to this question. For example, there are no alternative approaches presented within the consultation document, and there is no information on how accurate the OECD approach is compared to real life scenarios.

We support the response provided by the Public Law Project highlighting that the Social Metrics Commission (SMC)<sup>5</sup> has found that the OECD modified equivalence scale:

- Is likely to underestimate the needs of children
- Might not differentiate adequately between the needs of children of different ages
- Might overestimate the needs of pensioner families
- Could underestimate the needs of lone parent families.

This is particularly concerning in the context of family law legal aid given the number of survivors of domestic abuse seeking legal aid who are single parents. We support the recommendation for an additional supplementary cost of living allowance to be allocated to applicants living in lone parent households and a more generous rate of dependents allowance.

Given the uncertainty on whether the OECD Modified approach to equivalisation is the fairest approach, we recommend that there be a right for applicants to apply for a hardship review if they believe they cannot afford to pay privately for legal services.

**Question 2: do you agree that we should continue to deduct actual rent and mortgage payments and childcare costs for the civil and criminal means assessments? Please state yes/no/maybe and provide reasons.**

Yes. These are essential and unavoidable living costs that cannot be used to pay for legal services. We support the removal of the housing cap for people that do not have dependents. Childcare costs should include clubs that children attend before and after school as these are often used as childcare to enable the parent to work.

**Question 3: do you agree with our proposal to deduct jobholder pension contributions as part of the disposable income assessments for civil and criminal legal aid? Please state yes/no/maybe and provide reasons.**

Yes. This income is not accessible for most people without incurring very large fees, and so cannot be used to pay for legal services.

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<sup>5</sup> Equivalisation in poverty measures: Can we do better?, A technical paper of the Social Metrics Commission, December 2019 <https://socialmetricscommission.org.uk/wp-content/uploads/2019/12/SMC-Equivalisation-Report-2020-01-03-Web.pdf>

**Question 4: do you agree with our proposal to limit the amount of jobholder pension contributions we deduct as part of the civil and criminal means assessments to 5% of earnings? Please state yes/no and provide reasons.**

No, we propose that the full amount of pensions contributions should be deducted.

Pension contributions over 5% would be just as inaccessible as those under 5%, and so we consider that the full amount should be taken into account.

Although 5% represents the contribution that a jobholder would have to contribute if their employer were to make the lowest contribution by law, many jobholders need to contribute more in order to achieve an income that will meet their needs during retirement. This is a sensible thing to do for those who can afford it as it reduces reliance on the state in the future, and there is therefore a public policy interest in not penalising those who pay over 5% into their pension.

One of the aims of the Means Test Review is to reduce administrative burden and ensure the means test as simple to apply. Deducting the full amount will obviate the need for the Legal Aid Agency and providers to calculate 5% of earnings, which can be complicated if earnings fluctuate.

**Question 5: do you agree with our proposal to deduct any Prisoners' Earnings Act levy as part of the disposable income assessment for legal aid? Please state yes/no/maybe and provide reasons.**

Yes, as this income is not accessible and cannot be used to pay for legal services.

**Question 6: do you agree with the proposal to deduct agreed repayments of priority debt and student loan repayments taken directly from salary or deducted as part of the applicant's tax return as part of the disposable income assessment for civil and criminal legal aid? Please state yes/no/maybe and provide reasons.**

We partly agree to this proposal. We recommend that, in addition to priority debt and student loan repayments, repayments of all types of debt should be deducted as part of the disposable income assessment.

Failure to repay any type of debt can have serious financial consequences on the applicant and income used to repay debt cannot be diverted to payment of legal services. Applicants may have taken on unsecured debt in order to pay priority debts, and may find themselves in spiralling debt. Applicants in this situation are unlikely to be able to pay for legal services.

Unsecured debt such as credit cards and payday loans can be incurred by survivors on leaving an abusive relationship to meet housing and living costs. This may be their only means of leaving, particularly if they have no recourse to public funds. Failing to deduct 'non-priority' debt as part of the means assessment may result in survivors being unable to resolve other issues after leaving an abusive relationship such as child arrangements, financial orders on divorce and domestic abuse injunctions. This would contradict the Government's aim to tackle violence against women and girls.

A report by Surviving Economic Abuse<sup>6</sup> identifies an issue that we hear on our advice lines which is that survivors of domestic abuse have unsecured debt accrued in their names as part of economic abuse: "*running up debt in the name of a partner is a common form of*

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<sup>6</sup> Surviving Economic Abuse, [Denied Justice: How the legal aid means test prevents victims of domestic abuse from accessing justice and rebuilding their lives](#), October 2021, page 1

*economic abuse (in 60% of cases). Taking these debts into account when assessing income is also important to prevent abusers from further benefiting from their controlling behaviour.”*

#### **CASE STUDY - MAVIS**

A few years ago Mavis' husband forced her and their child to leave the family home, which is in his sole name. He had caused her to be estranged from her friends and family so initially she and her child had nowhere to go. She is now staying with a friend in their one bedroom house. Since the separation she has been seeking support from a domestic abuse charity. She didn't want to accept when she was with him that he was abusive because she was afraid and felt weak.

After the separation Mavis continued paying the mortgage and bills for the family home even though the house is in her husband's name and she no longer lived there. Her husband convinced her that she was obliged to do this, and she now realises it was financial abuse. She has since stopped paying his mortgage and bills but accrued thousands of pounds of debt in order to pay them which she is now trying to pay off.

Mavis is not eligible for legal aid because her income is too high, and her debt repayments are not taken into account. Mavis says she struggles to get by from month to month and she cannot afford to pay for a solicitor.

Mavis says she feels stupid and anxious. She has applied for a divorce but her husband has not responded and she has no idea how to progress the divorce, or resolve the financial issues.

In the event that calls by Rights of Women and other organisations to deduct all types of debt are rejected, it is important that there are safeguards in place to ensure applicants who cannot pay for legal services due to debt repayments have the right to request a hardship review.

**Question 7: do you agree with our proposals to disregard Modern Slavery Victim Care Contract (MSVCC) financial support payments from the income assessment? Please state yes/no/maybe and provide reasons.**

Maybe, we recommend that recipients of MSVCC payments should be non-means tested for civil legal aid as they are particularly vulnerable individuals who are unlikely to be in a position to pursue legal proceedings themselves. We support the points raised by Public Law Project in response to this question. However, in the event that the Government does not provide the level of support these victims require in the form of non-means tested legal aid, we support the proposal as these payments are for a specific purpose and applicants should not be expected to use them to pay for legal services.

**Question 8: do you agree with our proposals to disregard Victims of Overseas Terrorism Compensation Scheme (VOTCS) payments from the income assessment? Please state yes/no/maybe and provide reasons.**

Yes. We query whether the disregard should be discretionary rather than mandatory as the payments are to compensate for harm. A mandatory disregard would reduce administrative burden on providers and the Legal Aid Agency. If the discretion remains there should be a mechanism to appeal to an independent funding adjudicator.

**Question 9: do you agree with our proposal to remove Back to Work Bonus payments from the civil and criminal income disregards regulations? Please state yes/no/maybe and provide reasons.**

Yes, on the basis that the scheme has ended and there have been no new payments since 2004.

**Question 10: do you agree with our proposal to remove housing benefit payments from the civil and criminal income disregards regulations? Please state yes/no/maybe and provide reasons.**

No. Housing benefit helps people who are unemployed, on a low income or claiming benefits to pay their rent. In our view it is unlikely that recipients of benefits can afford to pay for legal services.

Rents can vary widely, and the proposal will disproportionately impact upon applicants who live in areas where housing costs are higher. Disabled applicants, or applicants with disabled dependents, may be unfairly discriminated against as they may have higher housing costs to meet their needs. Including housing benefit in the gross income calculation may result in applicants being deemed ineligible, even though they would have been eligible if they had continued on to the disposable income stage.

We are concerned that this proposal will disproportionately impact upon survivors of domestic abuse. Housing benefit is a necessity for many survivors living in temporary refuge accommodation, and they are one of the groups of people who will be most affected by this proposal. Some survivors may receive housing benefit for two properties if they have temporarily left their home to seek refuge, and they will be at particular risk of being deemed ineligible if housing benefit is included as an income.

We are also of the view that this proposal will penalise survivors of domestic abuse who have left the perpetrator (and will therefore receive all of the housing benefit) as opposed to those who remain in the same home as the perpetrator (in which case only half of the housing benefit is likely to be taken into account as the perpetrator's means is unlikely to be aggregated).

We recommend that housing benefit continues to be disregarded when calculating gross income, and that rent paid by the applicant (net of housing benefit) is deducted as part of the disposable income assessment.

If our suggestion that there should be no upper gross income threshold for all civil legal aid is taken forward then we would be less concerned about including housing benefit as income.

**Question 11: do you agree that we should continue to passport any remaining recipients of income-based Jobseeker's Allowance, income-related Employment Support Allowance and Income Support through the income element of the civil and criminal means tests? Please state yes/no/maybe and provide reasons.**

Yes. Recipients of these benefits cannot afford to pay for legal services or contribute towards legal aid, and passporting them will reduce administrative costs.

**Question 12: do you agree that we should continue to passport recipients of the Guarantee element of Pension Credit through the income element of the civil and criminal means tests? Please state yes/no/maybe and provide reasons.**



Yes. Recipients of this benefit cannot afford to pay for legal services or contribute towards legal aid, and passporting them will reduce administrative costs.

### Chapter 3: Civil income thresholds, passporting and contributions

**Question 13: do you agree with our proposal to raise the gross income threshold for civil legal aid for a single person to £34,950 per year? Please state yes/no/maybe and provide reasons.**

Maybe. We welcome an increase to the gross income threshold. However, this proposal is based on median individual income and the fact that a person has this income does not mean that they can afford to pay for legal services.

When considering legal aid for Crown Court cases, paragraph 346 of the consultation document states that:

*“The Crown Court has no upper gross income threshold – applicants for legal aid with high gross incomes are not ruled out of eligibility as they are for civil legal aid and legal aid at the magistrates’ court. We have no plans to set such a threshold, as we consider that Crown Court defendants should not be ruled out of eligibility by their gross income, which by definition does not take into account whether the defendant may be able to pay for their defence at private rates.”*

We are of the view that the same logic that has been applied to legal aid for defendants at the Crown Court should be applied to those seeking civil legal aid, and that there should be no upper gross income threshold. We consider that the additional burden of requiring providers to assess disposable income in all cases would not be any more than is already the case for criminal legal aid providers, and is justifiable to achieve fair results.

In the event that our proposal to remove the upper gross limit for civil legal aid is refused, we suggest that the gross income threshold should re-evaluated. We disagree that the basis of calculating the gross income threshold should be based on median incomes alone. Further consideration should be given to how much a person would need to earn and the disposable income and capital income they would need to be able to afford legal services without legal aid.

We do not understand the logic of deducting £429.50 from the gross income threshold figure (paragraph 11, Annex C of the consultation). We agree that income used to supplement additional needs should be disregarded, but disagree that by giving with one hand you should take with the other by reducing the gross income figure for the people who receive those benefits and the rest of the population.

The current income thresholds have not been uprated since 2009. The consultation document identifies that many legal aid practitioners believe this has resulted in some people who cannot afford to pay for legal services being denied legal aid. If the 2009 income threshold had been uprated using the CPI, the income threshold would be £42,573. We agree that the cessation of annual uprating is part of the reason why the current means test has become so far removed from what people can actually afford. We recommend that income and capital thresholds are reviewed and uprated annually.

**Question 14: do you agree with our proposal to introduce a lower gross income threshold for civil legal help cases, with the threshold set at £946 per month? Please state yes/no/maybe and provide reasons.**

Yes, we agree to the introduction of a lower gross income threshold for civil legal help cases, and we see the logic of this being set at the same level as the disposable income threshold

for civil controlled work. We agree that this will reduce unnecessary administrative burden. However, as to the actual figure of £946 per month, please see our response to questions 20 and 21.

**Question 15: do you agree with our proposal to remove the £545 monthly cap on allowable housing costs for applicants for civil legal aid with no partner or children? Please state yes/no/maybe and provide reasons.**

Yes. Housing costs are essential and unavoidable living costs that cannot be used to pay for legal services.

**Question 16: do you agree with our proposal to deduct actual Council Tax as part of the civil means assessment? Please state yes/no/maybe and provide reasons.**

Yes. Council Tax is an unavoidable cost and results in less income available to pay for legal services.

**Question 17: do you agree with our proposal to increase the work allowance in the civil legal aid means test to £66 per month? Please state yes/no/maybe and provide reasons.**

We agree that the work allowance should be increased but we query whether £66 is sufficient. The proposal is based on data from 2019 which is already out of date, and the cost of living has risen significantly since then.

Travel costs can be far higher than £66 depending on where the individual lives or how far they have to travel. For example, travel within or into London for a full time job using the London Underground ranges between £147.50 per month (if traveling within Zones 1 and 2) to £384.80 per month (if traveling from Zone 9 to Zone 1). This could have a significant impact on the applicant's ability to pay contributions towards legal aid or pay private fees if they are deemed ineligible.

**Question 18: do you agree with our proposal to use a Cost of Living Allowance drawing on essential household spending as the basis of our proposed lower income threshold? Please state yes/no/maybe and provide reasons.**

Maybe. The purpose of the lower disposable income threshold is to establish whether an applicant will be required to pay contributions towards their legal aid. Contributions can be a reason why some applicants are unable to take up the offer of legal aid. We therefore agree that the lower gross income threshold should be increased. We are unable to comment upon whether the threshold should be based on the Cost of Living Allowance without evidence to support this approach. If evidence has been gathered on whether the Cost of Living Allowance is a good indicator of who can and who cannot afford to pay for contributions then we recommend that this should be made available to the public.

Whichever approach is used, we recommend that the Legal Aid Agency collect data on the number of people who accept/refuse offers of legal aid subject to contributions, the reasons provided by applicants who refuse offers, and the number of people who accept offers but default on payments as they cannot afford the contributions. This will help determine whether the threshold is set at an appropriate level at future reviews.

**Question 19: do you agree with our proposal to set the Cost of Living Allowance at £622 per month for an individual? Please state yes/no/maybe and provide reasons.**

No. The figure is based on ONS cost of living data from 2019-2020. The cost of living has increased significantly since then<sup>7</sup>. A more recent ONS report has revealed that 87% of adults report increased cost of living<sup>8</sup>. We recommend that the allowance is recalculated using more up-to-date figures on the cost of living.

It is proposed that the cost of living used for Crown Court defendants will be based on spending by the entire population (resulting in the figure of £713 per month based on 2019-2020 data) because of the potential serious consequences arising out of being convicted. The cost of living for civil legal aid is lower as it is based on spending by the lowest 50% of the population when sorted by gross income, implying that the consequences of a negative outcome for civil legal aid cases are not serious. We disagree with this approach. The consequences of being denied access to justice for civil cases can be very severe, for example a person may become homeless or destitute, they may continue to be subjected to domestic abuse, their children be exposed to harm from an abusive parent, they may face removal from the UK to countries where they are at risk of persecution including torture.

Access to justice should be available to all, not just a percentage of the population. We recommend that the cost of living allowance for civil legal aid is based on spending by the entire population. This approach will also help align civil and criminal legal aid means tests.

We also support the points the Public Law Project has raised in response to question 18 in relation to how the figure has been calculated, specifically:

- The Cost of Living Allowance should take into account what people need to maintain a socially acceptable living standard rather than using the amount that people actually spend (when this may not achieve an acceptable standard of living).
- Much of the expenditure that has been deemed 'non-essential' and excluded from the cost of living allowance does not reflect the way people actually live their lives and the approach is unreasonable.
- The means test should take into account the increased living costs of disabled people.

**CASE STUDY – TINA**

Tina divorced her husband 3 years ago following domestic abuse. She obtained a non-molestation order which has now expired. Prior to the divorce he was dependent on her for all of his expenses and left her with debt that she is still repaying. He has started a claim for financial orders. He wants to sell the house and take a proportion of the proceeds. She and her 2 children will not have anywhere to live if she has to sell the home.

Tina has been told by a solicitor that she is not entitled to legal aid because of her income and possibly her capital. She doesn't understand how her income can be above the threshold because she has no money left at the end of the month after paying the mortgage, bills, council tax, debts and essential living costs like food.

Her husband pays for a lawyer who sends threatening letters to her every day. She has to self-represent. He has property abroad which he is hiding from the courts. Tina has to

<sup>7</sup> See, for example, the parliamentary research briefing: [Rising cost of living in the UK](#), 19 May 2022

<sup>8</sup> [The rising cost of living and its impact on individuals in Great Britain - Office for National Statistics \(ons.gov.uk\)](#), April 2022

prepare a financial statement which due in two days. She feels sick every time she starts to prepare the statement. She is panicking about having to go to court and talk to the judge herself and is worried that the perpetrator of domestic abuse will be able to make her and the children homeless.

We recommend that applicants have the right to apply for a hardship review if they believe they cannot afford to pay privately for legal services and there are additional living costs that have not been accounted for as part of the Cost of Living Allowance.

**Question 20: do you agree with our proposal to use median household spending as the basis for the proposed upper income threshold? Please state yes/no/maybe and provide reasons.**

No. There is a very large disparity between the remuneration lawyers receive at legal aid rates compared to private rates. The Means Test Review lacks an analysis of the number of people with above median spending who will not be able to afford legal services at private rates, and may therefore be left without any legal advice or representation.

We recommend that the upper disposable income threshold should take into account the amount a person must earn in order to afford legal services without any legal aid. Given that those with higher disposable incomes are expected to pay higher contributions towards their legal aid, we are of the view that it is possible to ensure that those who can afford to pay for legal services do so and that access to justice is available to all who need it.

We recommend that applicants have the right to apply for a hardship review if they believe they cannot afford to pay privately for legal services or they cannot afford the contributions. This is to ensure that those who need legal aid have a mechanism to access it if they fall through the gaps of the means test.

**Question 21: do you agree with our proposal to set the upper disposable income threshold at £946 per month for an individual? Please state yes/no/maybe and provide reasons.**

Maybe. We agree that the upper disposable income threshold needs to be increased. However, given that we do not agree with the basis for the proposed threshold (see our response to Question 20), we are not confident that a threshold set at £946 will ensure all women who cannot afford to pay for legal services will have access to legal aid.

**Question 22: do you agree with our proposal to set allowances for dependents at £448 per month for each adult and child aged 14 or over, and £211 for each child under 14? Please state yes/no/maybe and provide reasons.**

No. These figures are based on the OECD method of equivalisation and the Cost of Living Allowance for a single person. Please see our responses to Question 1 which sets out our concerns in relation to the OECD method of equivalisation and Question 19 which sets our concerns in relation to the Cost of Living Allowance for civil legal aid.

It is of particular concern in the context of this proposal that the OECD method of equivalisation has been criticised for underestimating the cost of a child and the increased costs for lone parents (further information is provided in Public Law Project's response to this question).

It is beyond our expertise to recommend the best way to calculate the dependants allowance, however, we can say from a common sense perspective that £211 for a child under 14 is too low. We do not understand why a child turning 14 would trigger a spike in

living costs. We are concerned about the impact that such an unrealistic figure for the costs of children under 14 will have on survivors of domestic abuse who require legal aid to resolve child arrangements issues. Most child arrangements disputes concern children under 14, as the older the child is the more likely it is that they will assert their own wishes and feelings.

**Question 23: do you agree with our proposal to not take into account the means of anyone providing temporary assistance to the applicant in the civil legal aid means assessment? Please state yes/no/maybe and provide reasons.**

Yes. We recommend the guidance should make clear that this would also apply to survivors of domestic abuse who may seek temporary assistance from friends and family.

**Question 24: do you agree with our proposal to implement a £500 earnings threshold for applicants in receipt of UC who are currently passported through the income assessment for civil legal aid? Please state yes/no/maybe and provide reasons.**

No, we strongly object to this proposal. We are of the view that recipients of UC should be passported through the means assessment.

The Ministry of Justice has identified that the purpose of UC is to support the day-to-day living of individuals and support them into work which is different to the aims of legal aid policy. However, part of the aim of legal aid policy should be to provide support to those who cannot afford to pay for legal services. People who receive benefits to support their day-to-day living will be unable to afford to pay for legal services privately.

If the Ministry of Justice is of the view that passporting recipients of UC puts them at an advantage over those with the same income but without UC, then this is an indication that the thresholds for all applicants requires reconsideration. It appears that in order to align the position of UC claimants with those of equivalent income who are not in receipt of benefits the Ministry of Justice proposes to make all people on low incomes worse off by making legal aid harder to access for recipients of universal credit. Instead, the Ministry of Justice could ameliorate the position of those who are not in receipt of universal credit to bring them in line with those who are receiving the benefit. This would be a more proportionate approach and will help the Ministry of Justice to meet its aim of targeting legal aid to those who need it. The current proposal does the opposite, it takes legal aid away from those who need it.

The Ministry of Justice's impact assessment has identified that once all recipients of legacy benefits have been moved over to UC, more people will be detrimentally impacted by the proposals than benefited for several groups of people including the following:

- Black/African (9% benefit, 14% detriment)
- Lone parents (6% benefit, 31% detriment)
- People with household income of £20-30k (9% benefit, 11% detriment)
- Women are more likely to be detrimentally impacted in terms of the take up of legal aid than men

The figures in relation to lone parents are stark. LASPO limited scope for private family law issues in order to target legal aid towards survivors of domestic abuse. Survivors with children who need to resolve private law family issues are likely to be women and lone parents. Black women experience various intersecting forms of oppression, and it is concerning that this proposal will add to the inequality they already experience. A briefing by

Imkaan and the End Violence Against Women and Girls Coalition<sup>9</sup> sets out the ways in which Black and minoritised women are disproportionately impacted by domestic abuse, and are less likely to receive the support that they need. This indicates that Black and minoritised women are a key demographic who are in need of legal aid. **We are of the view that the proposals in relation to UC disqualify the very people that LASPO aims to assist. We consider the proposal to contradict the Government's aim to tackle violence against women and girls.**

The proposals on UC will require applicants, providers and the Legal Aid Agency to dedicate extra time to:

- a) collecting evidence of earnings
- b) calculating household earnings and establishing whether they are over £500
- c) If earnings are over £500, carrying out the full means assessment

We are of the view that the additional administrative burden, together with the £2million that would be spent to cover IT changes (paragraph 65 of the impact assessment), are significant reasons not to enact the proposals in relation to UC. We reiterate our concerns that adding to the amount of unpaid work that providers must undertake will mean less of them will be willing to undertake assessments or accept cases.

In the event that the proposal to means assess applicants with household earnings of above £500 is retained, we have set out further concerns below:

The proposals do not include any information on what will happen if universal credit is provided as single payment to the household, and the recipients of the benefit are opposing parties in the legal dispute. The means of a partner or ex-partner who is the opposing party in the legal dispute is not usually aggregated for the purposes of legal aid as the partner's earnings will not be available to the applicant to pay for legal aid. This is most commonly the case in family law disputes, where the applicant for legal aid is usually a survivor of domestic abuse (following changes to scope introduced by LASPO). We would expect that when considering whether a recipient of universal credit should be passported the perpetrator's income would not be aggregated even if he lives in the same household. However, the proposals are silent on this issue.

We are also concerned that if universal credit payments have not been split, survivors may be vulnerable to economic abuse and may not have access to the universal credit payments<sup>10</sup>.

We are opposed to an earnings threshold, but would also like to raise that it is not clear why the proposed threshold is set at £500 rather than being in line with the lower gross income threshold.

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<sup>9</sup> Joint Briefing by Imkaan and the End Violence Against Women Coalition (EVAW), [Adjournment Debate: Black Women and Domestic Abuse](#), 30 June 2020

<sup>10</sup> See Survivor Economic Abuse's written evidence on The Economics of Universal Credit: <https://committees.parliament.uk/writtenevidence/723/html/>

**Question 25: what administrative impacts do you anticipate our proposal to implement a £500 earnings threshold for applicants in receipt of UC will have for providers and applicants?**

Currently, all recipients of UC are passported so all that is required is evidence that the applicant is in receipt of the benefit (e.g. a bank statement) or the online CCMS will perform this for the provider as it has access to information from DWP.

Under the new proposals, providers and applicants will first have to establish whether household earnings are above £500. This administrative burden will apply to all applicants in receipt of universal credit who work as providers will need to first ascertain whether their earnings are over £500, even if they do not have to go on to conduct the rest of the assessment for those earning under £500. It will require gathering evidence of means (such as bank statements and wage slips) from the applicant of legal aid and their partner and carrying out a calculation. For many of the women we speak to, the partner is often a perpetrator of domestic abuse and is not likely to be forthcoming with this evidence.

Those in receipt of universal credit often have varying incomes each week or month, which means evidence must be gathered to calculate average earnings over a period of time.

If earnings are above £500 providers will have to undertake a full means assessment to establish whether the applicant is eligible. The amount of work that goes into conducting a full means assessment is significant. It requires meeting with the client to explain what information is necessary, considering the documents once they are obtained and potentially returning to the client for more documents if the first set of documents raise questions. Gathering all the various types of evidence (bank statements, wage slips, benefit letters, rental statements etc.) to cover the whole of one computation period can sometimes take several weeks for people who are self-employed or have varying hours. If, for example, there is a missing bank statement or wage slip it can take a long time for the client to provide this and, by the time it is made available, the evidence they had originally provided is out of date so they must provide further evidence for a new computation period.

We are already struggling to signpost survivors of domestic abuse to legal aid firms for divorce and finances cases as there are so few providers willing to take on these cases on Legal Help. This is because the amount providers are paid compared to the work required makes it financially unviable. It is also becoming difficult to find providers to take on more complex child arrangements cases because of the amount of work involved in these cases. Some legal aid providers avoid taking legal aid cases where applicants have more complicated means, even where an applicant's means are not particularly complicated but they are not passported because of the amount of extra unpaid work required to ascertain whether someone is eligible. We would remind the Government that this work is unpaid. Where the work leads to a grant of legal aid, the firm will receive some remuneration for the case (although rarely enough for the amount of work done). However, legal aid providers are conducting many means assessments that do not lead to any remuneration at all because the applicant turns out to be ineligible. It is unsurprising, therefore, that some firms avoid applicants that are not passported because they risk doing a significant amount of work with absolutely no remuneration at all.

Any increase in the administrative burden on legal aid providers will only make the situation worse. The significant problems with the sustainability of the profession must not be underestimated.



**Question 26: do you have any suggestions for ameliorating any administrative burden that our proposal to implement a £500 earnings threshold for applicants in receipt of UC (if enacted) may cause for providers and applicants?**

We are opposed to a £500 earnings threshold for applicants in receipt of UC and strongly recommend passporting all recipients of UC. If this proposal is enacted we suggest that:

- Survivors who are in receipt of joint universal credit with the perpetrator are passported;
- That recipients of UC should continue to be passported for Legal Help and controlled work. For these cases, the amount of time it will take to assess the applicant will be disproportionate compared to the paltry fixed fee the provider will receive for the case and this will put providers off taking on the case.

**Question 27: do you agree with our proposal to use a tiered model approach (40%/60%/80%) to determine the monthly income contribution? Please state yes/no/maybe and provide reasons.**

No. The experiences we hear on our family law advice line indicate that contributions are a barrier to accessing legal support. The discretion to waive income and capital thresholds to enable survivors to apply for domestic abuse injunctions is rarely used, because the contributions are too high and unaffordable for survivors. Our concerns are echoed in research on this topic:

- A Law Society report produced in partnership with Rights of Women and the Legal Aid Practitioner's Group considered the impact of contributions on survivors of domestic abuse. It found that 16% of callers to the National Centre for Domestic Violence helpline who were eligible to apply for a domestic violence injunction were not able to proceed with their application because they could not afford the income contributions<sup>11</sup>.
- Surviving Economic Abuse's report<sup>12</sup> found survivors are unable to pay legal aid contributions, or they get into further debt to cover them.
- Professor Hirsch's Report 'Priced out of Justice' found that the current disposable income thresholds would leave some households paying contributions despite having less than half of what they needed to live on (as judged against the minimum income standard)<sup>13</sup>.

The concerns we have identified in relation to the proposed allowances for the cost of living, dependents, employment expenses, debt and pension contributions lead us to predict that the proposed means test will continue to assess applicants as having more disposable income than they actually have and that applicants will struggle to afford contributions.

We are unable to support a tiered approach without evidence that the contributions would be affordable. The purpose of having a percentage approach is so that those earning more, pay more. However, the very sharp increases in percentages for each tier seem disproportionate and may be unaffordable. We are concerned that the proposed means test may continue to arrive at unrealistic disposable income figures which would make the

<sup>11</sup> Law Society, [Research into the impact of the legal aid capital and contribution thresholds for victims of domestic violence](#), September 2018

<sup>12</sup> Surviving Economic Abuse, [Denied Justice: How the legal aid means test prevents victims of domestic abuse from accessing justice and rebuilding their lives](#), October 2021

<sup>13</sup> [Priced out of Justice? Means testing legal aid and making ends meet](#), Professor Donald Hirsch, Loughborough University, March 2018

contribution tiers even more unaffordable. A survivor of economic abuse assessed as having higher disposable income because of a failure to account for unsecured debt will remain in the same position as at present where she is unable to secure legal advice and representation to enforce her financial rights because she cannot afford to pay the contributions.

We are not aware of any of the LAA's data in relation to how much of current legal aid spending is recouped through contributions.

We suggest that the Legal Aid Agency collect data on whether the slightly increased rates are, in fact, affordable as suggested in the consultation document. In our response to Question 18 we recommend that data is collected on the number of people who accept/refuse offers of legal aid subject to contributions, the reasons provided by applicants who refuse offers, and the number of people who accept offers but default on payments as they cannot afford the contributions. This will help determine whether the contribution rates are set at an appropriate level at future reviews.

We recommend that applicants have the right to apply for a hardship review if they believe they cannot afford to pay contributions.

**Question 28: do you agree with our proposals for setting a minimum monthly income contribution of £20? Please state yes/no/maybe and provide reasons.**

Yes.

## Chapter 4: Civil capital thresholds, disregards and passporting

**Question 29: do you agree with our proposal to increase the lower capital threshold to £7,000 and the upper capital threshold to £11,000? Please state yes/no/maybe and provide reasons.**

Maybe. We support an increase to the thresholds, but we do not agree to the amounts proposed.

We doubt that an increase to the upper capital threshold by just £3,000 is likely to make a significant difference to the number of people eligible for legal aid, especially if it includes capital in the family home as well as savings. We do not agree with the rationale that those with above average wealth should not be eligible for legal aid, as this does not take into account the many different ways in which wealth is owned or whether they can actually pay for legal services.

The lower capital threshold has been based upon outdated ONS household expenditure data from 2017-2019. Household costs have increased since 2019 and it is therefore unlikely that £7,000 represents 3 months expenditure for the average household in 2022.

*We also query whether the decision not to equivalise the threshold based on household size is fair. Given that the lower income threshold is based on 3 months living costs, and it is accepted that the cost of living is affected by the size of the household (hence the need for a dependants allowance as part of the income assessment), what amounts to 3 months running costs will also depend upon the size of the household.*

We note that the policy and approach which underpins the proposals for the upper and lower capital thresholds are based on the idea of the applicant having savings. The lower income threshold is based on the applicant retaining a level of savings to cover unexpected expenses (paragraph 227 of the consultation document), and the assumption that savings do not change with household size (paragraph 230). The upper income threshold is based on median financial wealth from savings and investments in shares, bonds, trusts etc (paragraph 231). However, the policy intentions behind these proposals do not reflect the reality for survivors of domestic abuse who need legal aid. Survivors who call our family law advice line generally do not have any savings or investments, the only capital they have is tied up in their home. They should not be expected to sell their homes, potentially making themselves and their children homeless, in order to access legal advice and support. We have made recommendations which would address this issue in response to *questions 30 and 33*.

**Question 30: do you agree with our proposal to increase the equity disregard from £100,000 to £185,000? Please state yes/no/maybe and provide reasons.**

**We recommend that all of the equity in the home should be disregarded from the assessment.**

As noted in the report commissioned by the Law Society<sup>14</sup>, assessing capital tied up in an applicant's main home is inconsistent with policy in other areas such as means-tested welfare benefits and long-term care. We appreciate that the aims of legal aid policy are different to welfare benefits policy, however, the example given at paragraph 232 relates to

<sup>14</sup> [Priced out of Justice? Means testing legal aid and making ends meet](#), Professor Donald Hirsch, Loughborough University, March 2018

savings. There is no explanation given as to why forcing a person to become homeless and potentially having to rely on local authority housing is deemed undesirable for welfare benefits policy but acceptable for legal aid policy. The other example given is that a privately paying individual would be expected to use their savings to pay for legal services. That may well be the case in relation to certain assets. However, we query whether a privately paying individual would sell their home to pay for legal fees if they had no realistic prospects of purchasing a new home.

Applicants who pass the income stage of the means test but fail the capital means test due to 'disposable capital' in a family home are unlikely to be eligible for a remortgage or a loan because they would not be able to afford repayments. In the context of legal aid for family law issues, a survivor whose only option is to sell her home to pay privately for legal fees will have to consider the following:

- Putting a house on the market, finding a buyer and the process of selling the house can take months, and is unlikely to fit with timescales for a case which has already been or is about to be issued at court;
- The survivor and her children will have to find somewhere else to live. She is unlikely to know how much of the proceeds of sale will be needed to pay privately for her legal fees until the case is concluded and it is likely that she will have to find some sort of temporary accommodation whilst the legal case is ongoing.
- Once the case is concluded there may not be enough (or anything) left from the proceeds of sale to fund a new home for herself and her children. If she passed the income stage of the means test she will struggle to obtain a mortgage. She may have to remain in rented accommodation. She may become dependent on benefits or local authority housing once the proceeds of sale are spent.

All of this will add to the harm she and her children will already have experienced following domestic abuse. Survivors are unlikely to put themselves and their children through this trauma. Essentially, the current proposals will mean that access to justice through legal advice and support is not available to survivors of domestic abuse who own a home.

#### **CASE STUDY – GINA**

Gina got a non-molestation against her ex-partner following abuse.

Her ex-partner has applied for a child arrangements order and Gina is concerned about the safety of her children.

Gina has been told that she is ineligible for legal aid because of the capital in her home. The house is in her sole name because her partner had a bad credit rating when they bought the property. Since having children, Gina works part-time and receives universal credit. Gina has considered getting a litigation loan but the interest rates are too high and unaffordable. She thought about selling her home but she would have to switch to renting as she could not afford another property and she does not know what she will do once she has spent all the of the proceeds.

Gina said her husband's lawyer is very bullish, sends threatening emails, and keeps trying to sneak things into court orders that do not seem fair after the hearings. She has no idea how she will manage this without a lawyer. She feels sick when she thinks about talking to the judge and being in court on her own.

If our recommendation to disregard all of the value of the home is not adopted then we recommend that there be a mechanism for applicants to apply for capital thresholds to be waived as part of a hardship review. We also recommend that the thresholds are reviewed annually to keep pace with the rising costs of housing, and that inaccessible capital is disregarded.

**Question 31: do you agree with our proposal to amend the means test so that where a victim has temporarily left their home, the equity disregard should be applied? Please state yes/no/maybe and provide reasons.**

Yes, we support this proposal. It is unacceptable that this is not already happening consistently as it amounts to penalising survivors for fleeing domestic abuse and directly contradicts the Government's commitment to do everything it can to tackle domestic abuse.

**Question 32: do you agree with our proposal to remove the £100,000 cap on the disregard for assets which are the Subject Matter of Dispute? Please state yes/no/maybe and provide reasons**

Yes. It is not possible for applicants to use these funds to pay for legal services and, in the context of family law, lawyers will not usually defer payments until the case has concluded.

The consultation document confirms that the statutory charge will continue to apply to Subject Matter of Dispute cases. Since LASPO, survivors of domestic abuse are the only people who are in scope to receive legal aid for disputed assets. Currently, interest is added to the statutory charge at an extortionary rate of 8% which is punitively high and acts as a disincentive. It bears no relation to the base rate, and has not changed since 2005, at a time when the Bank of England base rate was 4.5%. It also places survivors in receipt of legal aid in a worse position than people who are able to pay privately. The way the statutory charge operates does not appear to have been reviewed as part of the Means Test Review. We recommend that the Ministry of Justice reviews the statutory charge and the way it operates to ensure it is consistent with the Government's agenda to tackle violence against women and girls.

**Question 33: would you support creating a new mandatory disregard in relation to inaccessible capital, and introducing a charging system to recoup legal costs in these cases?**

**Which legal services should this charge apply to? For example, Licensed Work only, or Licensed Work and controlled work?**

**What legal costs should be recoverable? Do you agree that the value of the charge should be any capital over the capital thresholds, once any disregards have been applied, up to the estimated cost of the legal services provided?**

**Do you think a waiver should apply (that is, do you think there are any cases in which we should not apply such a charge), and if so in what circumstances should it apply?**

**Do you have any concerns in terms either of how this proposal would operate practically, or its impact on access to justice?**

No, because we oppose the removal of the discretion and the application of a charge. It is our view that the proposal in its current form contradicts the Government's aim to tackle violence against women and girls. We echo concerns that the Public Law Project (PLP) has set out in their response to this question.

## The disregard

*R (oao GR) v Director of Legal Aid Casework [2020] EWHC 3140* established that the Director has a discretion to disregard capital in property wherever she considers it 'equitable' to do so. It appears that the circumstances which would lead to the application of the proposed mandatory disregard are more limiting and retrogressive.

We are concerned about the suggestion that "*Property which is saleable but which an individual may not want to sell – such as their family home – would not be considered inaccessible, nor would property on which a loan could be secured*" [paragraph 248]. As we have set out in response to question 30, whilst it may be possible for some survivors of domestic abuse to sell their home, the consequences of doing so would place them and their children in significant hardship and add to the trauma they have already experienced. Survivors should not be expected to make themselves homeless in order to access justice.

Our recommendation that the full value of the home be disregarded from the assessment would, if enacted, obviate the need for decision makers to decide whether that capital is inaccessible and reduce administrative burden.

If our recommendation to disregard the main home from the capital calculation is not enacted, then we consider a mandatory inaccessible capital disregard should be introduced for specific scenarios and a discretionary disregard maintained for all other situations. The mandatory disregard should cover capital owned by a victim of domestic abuse in joint names with the perpetrator and the home of a victim of domestic abuse even if it is in her sole name. The current discretion should remain for other types of capital that it would be equitable to disregard.

To be clear, we are of the view that the discretion to disregard inaccessible capital should remain irrespective of whether or not there is also a mandatory inaccessible capital disregard.

Whilst we are strongly in favour of the current discretion remaining, we do think that there are ways that it can be improved. The experiences we hear from survivors on our family law advice line indicate that most solicitors are not applying to the DLAC to use her discretion under Reg 31(b) even where they have inaccessible capital. A recent research report by PLP<sup>15</sup> found that there are disincentives for legal aid providers to take on cases and there has been inadequate training to caseworkers and information to the public on cases involving inaccessible capital. The report makes sensible recommendations on improving the existing discretionary disregard on inaccessible capital. This includes better monitoring and publishing of LAA data, developing better resources, removing financial disincentives for providers, specific training to LAA staff, better information for the public, develop a non-exhaustive list of scenarios in which discretion will be exercised, ensure legal aid be made available in all cases where capital cannot practically be accessed and provide a right of appeal to an independent funding adjudicator against refusals. We support these recommendations.

If the disregard is enacted as proposed in the consultation document it is essential that there is a mechanism to request that capital limits are disapplied on the basis they would cause hardship to the applicant or their children.

## The charge

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<sup>15</sup> [Trapped Capital and financial eligibility for legal aid](#), Dr Emma Marshall and Daniel Rourke, April 2022

The proposal involves introducing a charge over assets which are not subject to a dispute (as assets that are subject to dispute would be covered by the SMOD disregard and statutory charge). No information has been provided on how the charge will apply for survivors seeking domestic abuse injunctions such as non-molestation orders and occupation orders. Currently, if their capital is above the threshold they can ask for the threshold to be waived and receive legal aid subject to a contribution. Presumably, the current proposal means that if they have trapped capital, they will be asked to repay all of their legal fees with interest, rather than just the contribution. We appreciate that sometimes the contributions are so high that they amount to all of the legal aid spent on their case. Nonetheless, we are concerned that survivors seeking domestic abuse injunctions will be worse off by introducing a charge on trapped capital, and that it may act as a disincentive for survivors seeking protection. **We are opposed to the application of a charge to inaccessible capital. If a charging system is introduced we recommend that it is not applied to costs associated with obtaining domestic abuse injunctions.** We consider a waiver process to be inadequate as it would create uncertainty and discourage applicants.

The Ministry of Justice's *Harm Report*<sup>16</sup> highlights the many ways in which child arrangements proceedings negatively impact upon children and survivors of domestic abuse include perpetrators using court proceedings as a way to continue abuse and drain resources, child arrangements orders enabling further abuse, and the pro-contact, adversarial approach of the courts. The most common issue we are asked to advise upon on our advice line is child arrangements, many of our callers are struggling as litigants in person and fear losing their children to the perpetrator. We are clear that these survivors need legal advice and representation. We are concerned that by introducing a charge on their home the Ministry of Justice would be discouraging survivors of domestic abuse with private law children disputes from obtaining the vital advice and assistance they need. **We are opposed to the application of a charge to inaccessible capital. If a charging system is introduced we recommend that it is not applied to costs associated with Section 8 Children Act 1989 orders.**

The consultation document does not state whether interest will be applied to the charge, and if so how much. Our response to Question 32 sets out our concerns relating to the interest applied to the statutory charge, and we would have similar concerns to interest applied to any charges placed on inaccessible capital. We consider charging high interest rates to survivors of domestic abuse and potentially profiting from them to be extortionary.

Survivors who call our family law advice line are already struggling to find providers who are willing to take on Legal Help cases. We are concerned that the increased administration associated with the inaccessible capital charge will create further disincentives for taking on these cases.

#### **CASE STUDY - SAMANTHA**

Samantha has experienced various forms of domestic abuse, including financial abuse. She is receiving medication to deal with the impact of abuse on her mental health. She finds it difficult not to break down when discussing her legal and financial situation as she feels overwhelmed.

She is ineligible for legal aid due to the capital in her home which she jointly owns with the perpetrator. None of the solicitors she has contacted have mentioned anything about asking the Legal Aid Agency to disregard the trapped capital. She has no income, no pension. He

<sup>16</sup> [Assessing Risk of Harm to Children and Parents in Private Law Children Cases](#), Ministry of Justice, June 2020

has several pensions but has cashed them in and she does not know what he has done with the money.

There are ongoing divorce and finance proceedings. Her husband has filed for divorce on the basis of her unreasonable behaviour, and has demanded she pay half of the costs. She is unrepresented as she cannot afford to pay for a lawyer. Her husband can afford a solicitor. His solicitor has been bullying her to agree to a consent order. Her husband has refused to disclose the documents the court told him to disclose and she doesn't know what to do about this. Her husband took control of all the household finances. She struggles to understand financial issues.

There has been one hearing at court. Samantha did not understand what the judge and her husband's solicitor were saying, she doesn't not know what the outcome of the hearing was. She feels unable to manage the legal proceedings and does not know where she will live or how she will cope.

**Question 34: do you agree that we should revise the pensioners disregard as set out, by:**

**a) increasing the qualifying age to the State Pension Age**

**b) increasing the disposable income bands to align with the proposed lower disposable income threshold for civil legal aid; and reducing the number of income bands?**

**Please state yes/no/maybe and provide reasons.**

We do not have the expertise to predict the impact of this proposal. The means test review does not appear to have considered whether pensioners who are considered ineligible could afford to pay privately for legal services. We recommend that all applicants, including pensioners, have the option of applying for a hardship review if they cannot afford the contributions or if they are deemed ineligible but cannot afford to pay privately.

**Question 35: do you agree with our proposal to disregard payments under the Scotland and Northern Ireland Redress Schemes for historical child abuse from the capital assessment? Please state yes/no/maybe and provide reasons.**

Yes, we agree that these payments compensate for harm and should not be used to pay for legal services.

**Question 36: do you agree with our proposal to create a discretion for the DLAC to disregard VOTCS payments? Please state yes/no/maybe and provide reasons.**

We agree that Victims of Overseas Terrorism Compensation Scheme (VOTC) payments should be disregarded. The payments are to compensate for harm, and therefore we consider that the disregard should be mandatory rather than discretionary. This will also reduce administrative burden on providers and the Legal Aid Agency. If the discretion remains there should be a mechanism to appeal to an independent funding adjudicator.

**Question 37: do you agree with our proposal to create a discretionary disregard for benefit and child maintenance back payments from the capital assessment? Please state yes/no/maybe and provide reasons.**



We agree that benefit and child maintenance back payments should be disregarded from the capital assessments but recommend that the disregard is mandatory rather than discretionary:

- The reason for backdated benefit payments is usually mistakes or poor service by the state. It would be very unjust for applicants to then be penalised by the state for receiving backdated benefits.
- Similarly, backdated child maintenance payments are usually the fault of the paying parent. Refusing to pay child maintenance is a tactic used by perpetrators of economic abuse. It would be unjust for the applicant to then be penalised for receiving backdated child maintenance payments. Furthermore, the purpose of these payments is to provide for children, not legal services for the applicant.
- A mandatory disregard would have the added benefit of less administrative burden on providers and the LAA.

**Question 38: do you agree with our proposal to create a discretion to allow the DLAC and providers to disregard compensation, damages and/or ex-gratia payments for personal harm? Please state yes/no/maybe and provide reasons.**

Yes, we agree that these types of payments should be disregarded. However, as they payments are to compensate for personal harm we are of the view that the disregard should be mandatory. A mandatory disregard would have the added benefit of less administrative burden on providers and the LAA.

We support the following recommendations put forward by the Public Law Project:

- An amendment be made to the legal aid procedure regulations so that refusals made on means grounds carry a right of appeal to an Independent Funding Adjudicator.
- In order to reduce the risk of providers being unpaid for their work or disincentivised from taking on cases:
  - legal aid guidance should make clear that provider's assessments will not be overturned unless they are 'manifestly unreasonable' (i.e. in the *Wednesbury* sense, that no reasonable decision maker would have reached the same conclusion on the evidence available);
  - the introduction of a mechanism by which providers can seek early confirmation from the LAA that their means assessment is agreed (similar to the system of 'prior authority' for disbursements).

**Question 39: do you agree with our proposal to reintroduce capital passporting for nonhomeowners in receipt of passporting benefits through the capital assessment for civil legal aid? Please state yes/no/maybe and provide reasons.**

We agree with the proposal to reintroduce capital passporting for recipients of passporting benefits but **strongly object to the exclusion of homeowners**. Recipients of passporting benefits will not be eligible for a loan on their home as they will not be able to afford repayments<sup>17</sup>. Research by the Law Society indicates that they would be unable to sell their home within the timescales necessary to fund their legal case<sup>18</sup>. Even if they do sell their home, they are unable to predict how much of the proceeds will be spent on legal services

<sup>17</sup> [Priced out of Justice? Means testing legal aid and making ends meet](#), Professor Donald Hirsch, Loughborough University, March 2018, p36

<sup>18</sup> Ibid.

and will have to move into temporary accommodation. They may have to switch to renting and, once the proceeds of sale have been depleted, they may ultimately become reliant on the state for housing.

Capital passporting all recipients of passporting benefits would reduce administrative burden on providers and the Legal Aid Agency, be less likely to place applicants in significant hardship and save costs to the state in the long term. Furthermore, we have recommended that the value of an applicant's main home should be disregarded for all applicants for the reasons set out in our response to Question 30.

## Chapter 5: Immigration and asylum, under-18s and non-means tested cases

**Question 40: do you agree with our proposal to align the immigration representation Upper Tribunal capital threshold (currently £3,000) with those usually used for civil legal aid – namely a lower threshold of £7,000 and an upper threshold of £11,000? Please state yes/no/maybe and provide reasons.**

Yes, we support the proposal to align the immigration representation Upper Tribunal capital thresholds with those used for civil legal aid. We see no acceptable justification for the current differentiation between immigration representation at the Upper Tribunal and the rest of civil legal aid, and consider it to be discriminatory against migrants.

In relation to the actual figures (£7,000 and £11,000), we reiterate our concerns raised in response to Question 29 which are that they do not take into account the cost of legal services and who can afford to pay them, and are based on outdated ONS data.

**Question 41: do you agree with our proposal to remove the exemptions on the payment of income and capital contributions for immigration and asylum representation in the Upper Tribunal, replacing them with the new proposed income and capital thresholds for civil legal aid? Please state yes/no/maybe and provide reasons.**

No. Certain migrants are in a unique position of having the primary means of survival denied to them by a state that prohibits them from work and accessing public funds. In such situations, those with access to capital may rely on that capital to pay for their essential living needs. Migrants without the right to work and / or access public funds should have their dependence on any capital recognised.

Paragraph 301 of the consultation document states that contributions will be payable for those with capital above £3,000. We assume this is an error and that the proposal is for contributions to be paid on capital above £7,000.

**Question 42: do you agree with our proposal to increase the immigration representation First-tier Tribunal capital threshold from £3,000 to £11,000? Please state yes/no/maybe and provide reasons.**

Yes, we support the proposal to increase the threshold in line with the upper capital threshold for the rest of civil legal aid for the reasons set out in the consultation document. However, please see our response to question 29 in relation to the actual figure of £11,000.

**Question 44: do you agree with our proposal to non-means test applicants under 18 for all civil representation? Please state yes/no/maybe and provide reasons.**

Yes, we support non-means testing of applicants under 18 for all civil representation and consider it should extend to all types of civil legal aid. It is our view that the Means Test Review has correctly identified that:

- Under 18s are a vulnerable group within the civil and family justice systems who are highly unlikely to be able to effectively represent themselves at court.
- Conflicts of interest between applicants under 18 and maintaining adults mean that aggregating means is rarely appropriate.

- Applicants aged under 18 are unlikely to have enough income or capital to fail the means test.
- Administrative burden on applicants, providers and the Legal Aid Agency will be reduced.

**Question 45: do you agree with our proposal to introduce guidance which indicates when the means testing of an applicant who has turned 18 during their case may be unnecessary? Please state yes/no/maybe and provide reasons.**

Yes, we agree with this proposal for the reasons set out at paragraph 318 of the consultation document.

**Question 46: do you agree with our proposal to continue means-testing applicants under 18 for civil legal help, family help (lower and higher) and Help at court? Please state yes/no/maybe and provide reasons.**

No. We are of the view that applicants under 18 should be non-means tested for the same reasons as they should be non-means tested for civil representation (see our response to Question 44).

We do not agree that conflicts with maintaining adults are less likely for Legal Help and other forms of controlled work, and no information has been provided to evidence this assertion within the consultation document. Scope restrictions and the merits test sufficiently safeguard against the possibility that parents may encourage their children to seek legal aid for their own benefit.

If the child or young person's maintaining adult is unable or unwilling to pay for the legal services then they will be left with no support to resolve what is likely to be an issue of overwhelming importance to them.

Potentially depriving those aged under 18 of family help (higher) and Help at court means that they may have to represent themselves at court hearings, despite the Means Test Review finding that they are highly unlikely to be able to do this effectively (paragraph 316 of the consultation document). The consultation document seems to draw a distinction between advice and assistance outside of court proceedings and advice provided during court proceedings, concluding that children's eligibility should be non-means tested in proceedings. However, family help (higher) and help at court are both forms of legal aid provided to people in proceedings. In family law, many cases conclude at the stage at which family help (higher) is the appropriate form of legal aid. For these proposals to be coherent, these forms of legal aid, at the very least, should be non-means tested.

We would add that it is also highly unlikely that people aged under 18 will be able to undertake the work that would be covered by legal help and family help (lower) such as ascertaining the law applicable to their case, assessing the merits of the case, negotiating with other parties, preparing consent orders, or taking any pre-proceedings steps. These are not steps that a child is able to do without legal support. A parent that does not cooperate in the means assessment but who does not, technically, have a conflict can prevent children from accessing advice and support that is drastically needed. Providing non-means tested legal aid for all forms of advice would prevent these vulnerable children being left without access to justice.

Obtaining all the relevant evidence of means from the child or young person and their maintaining adult, and then carrying out the calculation, takes a significant amount of time

and effort for both the applicant and provider. Providers are not paid for carrying out the means assessment.

**Question 47: do you agree with our proposal to introduce a simplified means test for applicants under 18 for civil legal help, family help (lower and higher) and Help at court? Please state yes/no/maybe and provide reasons.**

We are of the view that applicants under 18 should be non-means tested for civil legal help, family help (lower and higher) and Help at court. If the Ministry of Justice continues to means test children and young people for these types of cases then a simplified means test would be of some (albeit limited) benefit to applicants and providers.

## Chapter 8: Implementation and review of the new legal aid means tests

**Question 87: do you agree with our proposal to implement the new means tests via a staggered approach, rather than on a single date? Please state yes/no/maybe and provide reasons.**

Maybe. We understand that introducing the new means test on a single date may mean delaying measures that could be introduced earlier, and so we are not opposed to a staggered approach. However, we are concerned that no timescales have been provided in the proposal, and that the introduction of elements of the means test may be unduly delayed.

Given the numbers of vulnerable people who are not currently eligible for legal aid who may be eligible under these proposals, we would argue the proposals should be implemented as quickly as possible, and simultaneously as far as possible. This is particularly the case in relation to our recommendations for the family home to be excluded from the capital assessment as this is currently preventing many women from accessing justice. In the context of private family law these women are survivors of domestic abuse (otherwise they would not be in scope for legal aid). Their situations are often urgent and, for them, desperate. We would argue that our recommendations with respect to inaccessible capital are simple changes which can be implemented immediately, and should be.

The driver for the implementation seems to be the ease with which digital systems can be changed. This does not take account of the seriousness of the issues which people who need legal aid face, and who under these proposals would be entitled.

**Question 88: do you agree with our proposal to implement the non-means tested areas of civil legal aid (if confirmed following consultation) before any other areas? Please state yes/no/maybe and provide reasons.**

We partly agree and partly disagree. We agree that implementing the non-means tested areas of legal aid can be implemented immediately. However, further thought should be given to other parts of the new means test that could also be introduced immediately. We are aware that the Public Law Project have suggested parts of the means test that could be introduced in Phase 1 and will have a considerable impact on the lives of people who need legal services.

The consultation document does not include a timescale for phase 1. We consider the statutory instrument should be ready to be laid before Parliament immediately after completion of the consultation.

**Question 89: do you agree with our proposal to implement the remainder of the new civil means test as Phase 2 of the implementation process, in advance of the new criminal means tests? Please state yes/no/maybe and provide reasons.**

If implementing the remaining civil means test at the same time as the criminal means test means that the civil means test will be delayed, then yes we agree to it being implemented first. Our main concern, however, is that reform is needed urgently and no timescales have been provided. The cost of living crisis has made an already untenable situation even more desperate in terms of the ability of people to access legal advice and support. Courts are experiencing huge delays, which could partly be alleviated with lawyers helping to manage and drive cases. We have highlighted throughout our consultation response the impact that lack of legal advice has on survivors of domestic abuse.

We recommend that timescales are provided at the same time as the conclusions of the consultation.

**Question 91: do you have any further comments in relation to the implementation phasing of the new means tests? Please state yes/no/maybe and provide reasons.**

We are concerned about the potential delay to implementation of the means test if it is dependent on digital upgrades. We are aware that CCMS is renowned amongst providers for being prone to problems. We are therefore of the view that our recommendation to introduce a hardship review mechanism to civil legal aid should be prioritised and introduced as soon as possible during phase 1. Applicants who would pass the new means test once fully implemented will be placed at an unfair disadvantage if they cannot access legal aid during the transition. This will assist applicants who do not have the funds to pay for legal services and require urgent assistance.

**Question 92: do you agree with our proposal to allow existing recipients of legal aid to seek a reassessment under the new means-testing rules, when implemented? Please state yes/no/maybe and provide reasons.**

Yes, we agree with this proposal.

**Question 93: do you agree with our proposal that reassessments for civil legal aid recipients should be carried out under the new means-testing regime, but with the proviso that recipients who have benefitted from the previous rules on UC income passporting and/or the pensioner disregard should continue to be subject to the previous means-testing rules in these areas? Please state yes/no/maybe and provide reasons.**

Yes, we agree with this proposal, however we object to the introduction of an earnings threshold for recipients of UC and consider that they should continue to be passported. In the event that the proposals related to UC are implemented despite the objections, then yes we agree those who have benefited from the previous rules on UC should continue to be subject to the previous means-testing rules.

**Question 95: do you have any further comments about our proposals in relation to the transition from the old to the new means-testing regime?**

Please see our response to question 91 in relation to the options for people who would be eligible under the new means-testing regime and should not be prejudiced during the transition.

We also reiterate the need for the new means test to be implemented quickly and for timescales to be provided as soon as possible.

**Question 96: do you agree with our proposal to carry out a review of the means test thresholds within 3–5 years after the implementation of the new means tests? Please state yes/no/maybe and provide reasons.**

No. This is inappropriate and inadequate. The cost of living has risen since the figures on which these proposals are predicated were calculated. At the time of writing this response, the Consumer Prices Index rose 9% over the past twelve months. The cost of living continues to rise more quickly than at any time in the past 40 years. The figures the review states the proposed changes are based on are the ONS Living Costs and Food survey from 2019-2020. In April 2020 the CPI was 108.5. As of April 2022 the CPI is at 120.

As a result of the above, the basis of the calculations is already outdated now, and does not reflect the experience and expense of living for those affected. To wait another 3-5 years before reviewing, with a further delay before any changes are implemented, will lead to those who should be eligible, even on the government's own basis of median income, being excluded.

As the past few years have demonstrated, a lot can change over the course of one year. We therefore recommend that the means test thresholds are reviewed annually.

**Question 97: do you have any views on the potential impact of our proposals on groups with protected characteristics? These are: age; race; disability; sex; sexual orientation; gender reassignment; marriage and civil partnership; pregnancy and maternity; religion or belief. We would particularly welcome information on the protected groups which we do not have legal aid data on: gender reassignment, marriage and civil partnership, pregnancy and maternity, and religion or belief.**

The Equalities Impact Assessment (EIA) we have seen for the proposed changes to the means test relate to the earnings threshold for those in receipt of Universal Credit. We have not seen EIAs for any other of the proposed measures. Our response to Question 24 which includes our concerns on the impact of this proposal on groups of people identified as being disadvantaged by the Ministry of Justice's impact assessment. We have added further views below.

The EIA for the proposals in relation to Universal Credit reveals that the groups that are likely to be disadvantaged are:

- Women
- Black/African (9% benefit, 14% detriment)
- Lone parents (6% benefit, 31% detriment)
- People with household income of £20-30k (9% benefit, 11% detriment)

Additionally under the new proposals, gay and lesbian people are least likely to benefit from the proposals.

It is worth noting that the EIA that was conducted prior to the introduction of LASPO acknowledged that women, Black and minoritised, disabled, and ill people and those aged between 24-60 would be disproportionately adversely impacted. The proposed means test risks increasing the disadvantage further. Such further discrimination cannot be justified. It is inadequate to identify that the proposals will disproportionately disadvantage some groups and move on. We believe it is incumbent upon the Ministry of Justice to consider what changes can be made to the proposals to address the negative impacts on the groups of people that have been identified.

It is to be remembered that in order to qualify for private family law legal aid (in most cases) domestic abuse has to be evidenced. Victims of domestic abuse who would otherwise qualify and are from communities which are often discriminated against, harassed or victimised, will be prevented from accessing legal aid by these proposals.

A briefing by Imkaan and the End Violence Against Women and Girls Coalition<sup>19</sup> sets out the ways in which Black and minoritised women are disproportionately impacted by domestic abuse, and are less likely to receive the support that they need due to the various

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<sup>19</sup> Joint Briefing by Imkaan and the End Violence Against Women Coalition (EVAW), [Adjournment Debate: Black Women and Domestic Abuse](#), 30 June 2020



intersecting forms of oppression they experience. A study by SafeLives revealed that women from Black and minoritised communities have to make on average 17 contacts with agencies before getting the help they need, compared with 11 times for a white woman, and that Black and minoritised women endured abuse for 1.5 times longer than white or white Irish women before seeking help.<sup>20</sup> Black and minoritised women are a key demographic who are in need of legal aid and any proposals that will adversely impact them should be avoided.

The EIA predicts that women will be more detrimentally impacted by the changes than men. The structural forms of disadvantage and discrimination women face means that they are less likely to be able to afford to pay for legal services, and the proposals will entrench this position further. The equality assessment states that women will benefit more from the changes to the disregard of contested assets. However, in order to pass the means test an applicant for legal aid has to satisfy both the income and the capital stages of the means test.

The age groups that are disproportionately detrimentally impacted are those between 31-40 (minus rating of 4%), and 41-50 (minus rating of 1%). These are the ages of people most likely to have children and get divorced, who will be most likely to require legal aid for child arrangements and private family law cases. The proposed measures will therefore disproportionately impact those who are likely to be in most need of legal aid. This is particularly stark regarding take up of civil representation – the negative impact for those between 31-40 is 21%, and for take up of legal help the negative impact for the same age group is 27%.

In relation to the groups that the Ministry of Justice does not collate data (gender reassignment, marriage and civil partnership, pregnancy and maternity, and religion or belief) we suggest that going forward this data is collected. It will enrich our understanding of the extent to which the eligibility criteria enables or hinders certain groups from accessing legal aid. The number of people accessing legal aid with these protected characteristics also provides some insight into the needs of those groups.

We have already identified throughout our response the difficulties survivors who need advice on divorce and financial arrangements face when trying to access legal aid. This can be an important step in cutting ties with a perpetrator. Monitoring the marital/civil partnership status of those being able to access various levels of legal aid for divorce, finance and other family law issues may help identify trends and gaps.

It is also important to monitor the number of people who are not married or civilly partnered accessing legal aid. Very little attention is given to the need for legal aid to advise and represent cohabiting couples who seek to separate and wish to resolve finance and property issues.

Women who enter legally unrecognised religious marriages are not able to access the same family law remedies when seeking to separate and resolve financial issues as women who have entered legally recognised marriages. The lack of access to remedies in the formal legal system has a disproportionate impact on some Black and minoritised ethnic women who live in culturally conservative religious communities, and are consequently vulnerable to the discriminatory processes of religious arbitration forums<sup>21</sup>. These women already struggle to find and fund support with these complex legal issues. It is therefore concerning that the

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<sup>20</sup> SafeLives [Insights](#) 2015

<sup>21</sup> For more information see the [joint evidence by Rights of Women and Southall Black Sisters' on the rights of cohabiting partners](#), July 2021

EIA on the universal credit proposals have identified that Muslim people are negatively impacted by the proposals, both overall and in take up of civil representation. This will make it harder for people who have entered religious only marriages to access justice.

Domestic abuse is likely to increase when survivors are pregnant, and this may be a time when they need access to justice to protect themselves and their children. It is therefore important to monitor access to legal aid for those who are pregnant or on maternity leave.

Trans people face huge levels of abuse (including domestic abuse) and inequality, and consequently many of them experience additional needs such as homelessness and mental health<sup>22</sup>. It is vital that they are able to access legal aid to achieve safety and peace. The ability of trans people to access legal aid should be monitored, and any policies which create barriers to their ability to access legal aid should be rectified.

**Question 98: do you think that these proposals, taken as a whole, would reduce the administrative burden for providers of and applicants for legal aid for civil representation, increase it or leave it broadly similar?**

In general, we believe many of the changes proposed will increase the burden on providers and applicants. We are of the view that there is scope to significantly reduce the administrative burden on providers and applicants and have raised concerns and provided suggestions throughout this consultation response.

We support the points raised by the Public Law Project in response to this question.

**Question 99: do you think these proposals, if enacted, will improve the sustainability of civil legal aid? Please state yes/no/maybe and provide reasons.**

No. Civil legal aid has suffered from decades of systematic and systemic cuts and under-investment. While some of these proposed changes are welcome, there is no substitute for greater investment of money to support access to justice for the most vulnerable in society. Without it, litigants who are excluded from legal aid eligibility will continue to suffer, other public services will continue to bear the brunt of the impact through the increased burden on the court system, benefits, housing needs and health service, especially mental health services. Additionally, the emotional and physical costs for litigants and their families facing unmet legal need is significant.

Revising the means test is just one part of improving the sustainability of legal aid. People who are eligible for legal aid need providers who are willing and able to take on their cases. The current fixed fee structure disincentivises providers from taking on the most complicated cases. The fees and rates paid to providers are in desperate need of review. Financial barriers including low levels of remuneration were raised by aspiring and existing legal aid lawyers in a census by the Legal Aid Practitioner Group<sup>23</sup>. We increasingly hear from survivors of domestic abuse that they are finding it difficult to find a provider to take on their case. We recommend that remuneration is reviewed as a matter of urgency.

We support the recommendation that providers should be remunerated for their time spent conducting means assessments.

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<sup>22</sup> See Stonewall's [Trans Report](#), 2018 and SafeLives [Transgender Victims' and Survivors' Experiences of Domestic Abuse](#), 2021

<sup>23</sup> Legal Aid Practitioners Group, [Legal Aid Census](#), 2021

**Question 100: do you think that these proposals, taken as a whole, would reduce the administrative burden for providers of and applicants for legal aid for civil legal help, increase it or leave it broadly similar?**

Please see our response to Question 98 which applies equally to this question. We would like to add that survivors who call our line find securing legal aid lawyers for legal help cases even more difficult than certificated cases. Callers to our family law advice lines tell us that all of the legal aid providers they contact tell them they no longer take on legal aid divorce cases. We believe that this is because providers receive very paltry fixed fees for legal help cases, most of the work the provider does (including assessing means) is not paid, there is a risk that the file will be 'nil assessed' if the Legal Aid Agency considers the means assessment to be incorrect after the work is completed, and legal help cases are therefore economically unviable. This leads to a lack of providers taking on divorce cases on Legal Help.

An analysis on the impact of early advice found that it has a significant effect on the timing of the resolution of legal issues<sup>24</sup>. In order to improve sustainability of civil legal help and encourage the early resolution of cases we recommend that remuneration for civil legal help cases are increased.

**Question 101: do you think these proposals, if enacted, will improve the sustainability of civil legal aid? Please state yes/no/maybe and provide reasons.**

Please see our response to Questions 99 and 100.

**Question 102: do you think that these proposals, taken as a whole, would reduce the administrative burden for providers of and applicants for legal aid for public family cases, increase it or leave it broadly similar?**

We predict that the administrative burden for the areas of public family law cases which are non-means tested will remain broadly similar. The administrative burden for areas of public family law cases which are means tested will increase, see our responses to questions 98 to 100.

**Question 103: do you think these proposals, if enacted, will improve the sustainability of legal aid for public family matters? Please state yes/no/maybe and provide reasons.**

No. See our response to question 99 above.

**Question 104: do you think that these proposals, taken as a whole, would reduce the administrative burden for providers of and applicants for of legal aid for private family cases, increase it or leave it broadly similar?**

Please see our response to Questions 98 to 100.

**Question 105: do you think these proposals, if enacted, will improve the sustainability of legal aid for family matters? Please state yes/no/maybe and provide reasons.**

No. Please see our response to Questions 98 to 100.

**Rights of Women  
07 June 2022**

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<sup>24</sup> Law Society, Ipsos MORI, [Analysis of the potential effects of early legal advice/intervention](#), Nov 2017